

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA**

NORTHERN DYNASTY MINERALS  
LTD. and PEBBLE LIMITED  
PARTNERSHIP,

Plaintiffs,

v.

U.S. ENVIRONMENTAL PROTECTION  
AGENCY

Defendant.

Case No. 3:24-cv-00059-SLG

**DECLARATION OF BRENDAN CUMMINGS**

I, Brendan Cummings, hereby declare as follows.

1. I have been on staff at the Center for Biological Diversity (the Center) for more than 20 years and currently serve as Conservation Director of the organization. I am also a member of the organization. The Center's members and staff, including myself, rely on the Center to represent our interests in the preservation of imperiled species and habitats such as those in Bristol Bay, Alaska.

2. I work with our legal and scientific staff and other organizations to advance the Center's goal of wildlife and habitat protection through administrative actions and reform, scientific research and the judicial process. In my capacity at the Center, I am familiar with all aspects of the Center's activities and organizational interests related to Alaska in general and Bristol Bay in particular.

3. The Center is a nonprofit organization headquartered in Tucson, Arizona. The Center has staff and offices in a number of states, including Homer, Alaska. The Center works through science and environmental law to advocate for the protection of endangered, threatened, and rare species and their habitats throughout the United States and abroad.

4. The Center has more than 89,000 active members, many whom identify as wildlife viewers, birders, hikers, and recreationalists. Center members reside throughout the United States, including in Alaska. For example, the Center has members who work in the Bristol Bay area as commercial fishermen. The Center works to ensure the long-term health and viability of animal and plant communities across the United States and

elsewhere, and to protect the habitat these species need to survive. The Center believes that the health and vigor of human societies and the integrity and wildness of the natural environment are closely linked.

5. The Center is dedicated to the preservation, protection, and restoration of biodiversity, native species, ecosystems, and public lands. Among other things, the Center is one of the leading conservation groups advocating for protection of imperiled species. The Center works to protect wild places and their inhabitants. The Center is working to secure a future for animals and plants hovering on the brink of extinction, for the wildlands they need to survive, and by extension for the spiritual welfare of generations to come.

6. As part of its mission, the Center provides oversight of governmental programs, policies, and activities that affect wildlife and endangered species. The Center has been at the forefront of efforts to hold the government accountable for its obligations under the Endangered Species Act (ESA), Marine Mammal Protection Act (MMPA), National Environmental Policy Act (NEPA), and other laws protecting wildlife and its habitat. The Center regularly engages in protection efforts and campaigns to ensure that our nation's environmental laws are enforced with respect to wildlife and its habitat.

7. The Center actively develops and disseminates newsletters, reports, action alerts, and social media to its members; policymakers; local, state, federal and international governmental officials; nonprofit organizations; and interested members of the general public a wide array of educational and informational materials concerning the

status of and threats to wildlife species, including threatened and endangered species and their habitats.

8. The Center has been actively involved in protecting Alaska's wildlife since the early 1990s. Our involvement has included submitting ESA listing petitions for the Queen Charlotte goshawk, Alexander Archipelago wolf, Cook Inlet beluga whale, Aleutian sea otter, yellow-billed loon, Kittlitz's murrelet, polar bear, bearded, ringed, ribbon and spotted seals, Pacific walruses, cold water corals and Lake Iliamna seals. We have also submitted petitions seeking critical habitat designations for bowhead whales and North Pacific right whales. Additionally, we have submitted petitions seeking "depleted" designation under the MMPA for Alaskan sea otters and the AT1 stock of killer whales.

9. Besides our administrative petitions, the Center has also engaged in numerous other activities related to the protection of biodiversity and habitat in Alaska such as comments, appeals and/or litigation regarding forest plans, timber sales, oil and gas leasing, mining developments, fisheries bycatch, and other environmentally damaging activities. In sum, the Center has a significant history of advocacy and involvement in environmental issues affecting Alaska species. Our current involvement with regard to issues affecting Bristol Bay falls squarely within our organizational interests and mission.

10. Specifically, with regard to Bristol Bay, the Center submitted a petition in 2012, and again in 2020, to the U.S. Secretary of Commerce to list the Iliamna lake seal,

*Northern Dynasty Minerals LTD et al. v. EPA*,  
Case No. 3:24-cv-00059-SLG 3

as a distinct population segment of the eastern North Pacific harbor seal, as a threatened or endangered species under the ESA. The Iliamna lake seal lives only in Iliamna Lake, which is the largest body of freshwater in Alaska. The Center submitted the petitions because of the risk of extinction of this unique seal population due to high-magnitude threats including climate change and the potential Pebble Mine. If approved, the Pebble Mine would threaten to contaminate the lake's pristine waters and devastate the seasonal salmon runs and their vital rearing habitat upon which the seals rely.

11. The Center also filed a lawsuit in 2020 against the U.S. Department of Interior to restore protections for brown bears from harmful hunting and predator control practices on national preserves in Alaska managed by the National Park Service, including Lake Clark National Park and Preserve and Katmai National Park and Preserve. These national preserves are known for the best brown bear-watching opportunities anywhere on the planet, which Center members enjoy. The proposed Pebble Mine site is dangerously close to the southern boundary of Lake Clark National Park and Preserve and a proposed road associated with the mine would bisect the corridor between the two preserves. The Pebble Mine would threaten the brown bears that call these preserves and the surrounding Bristol Bay watershed home, fragmenting their essential habitat, possibly destroying denning sites, increasing negative bear-human interactions, and threatening salmon habitat and salmon populations which are a key food source for the bears.

12. The Center has been actively involved in administrative processes to protect Bristol Bay from the potential Pebble Mine. In 2017, the Center, along with other *Northern Dynasty Minerals LTD et al. v. EPA*,  
Case No. 3:24-cv-00059-SLG 4

groups, provided comments to the U.S. Environmental Protection Agency (EPA) on the agency's proposal to withdraw its July 2014 proposed determination to protect the Bristol Bay watershed under the Clean Water Act. In 2019, the Center provided detailed comments to the U.S. Army Corps of Engineers (Corps) and Alaska Department of Environmental Conservation on the draft environmental impact statement and public notice of an application for a permit under Section 404 of the Clean Water Act prepared by the Corps for the proposed Pebble Mine project. In 2022, the Center, along with other groups, provided additional comments to EPA on its May 2022 revised proposed determination that would prohibit mining of the Pebble deposit.


13. The Center has a strong organizational interest in the species and habitats of Bristol Bay, and in the proper management of this spectacular and critically important region for biodiversity. In advocating for these interests, the Center represents itself and its members. Center members have visited and will continue to visit the Bristol Bay area for recreational, aesthetic, and educational purposes including fishing, wildlife watching, and photography. Center members rely on the Center to represent their interests with regard to advocacy on behalf of the species and habitats of these areas.

14. If the potential Pebble Mine is ever allowed to proceed, this would irreversibly harm the Center's members' use and enjoyment of the Bristol Bay region and the species that rely on this region. Center members' interests in fishing, viewing wildlife and enjoying untrammeled landscapes would be irreparably harmed.

15. In sum, participation in this case falls squarely within the Center's organizational mission; if the plaintiffs prevail in this litigation, the interests of the Center and its members would be significantly and irreparably harmed. However, a successful defense in this litigation by the Center would serve to prevent such harm, redressing the injuries of the Center and its members.

I declare under penalty of perjury that the foregoing declaration is true and correct.

Dated: April 30, 2024

By:   
Brendan Cummings